

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KIMBERLY YORDY,

Plaintiff,

v.

PLIMUS, INC,

Defendant.

Case No. 12-cv-00229-TEH

**ORDER VACATING DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT**

On January 9, 2014, Defendant Plimus, Inc. ("Plimus") filed a notice of motion and motion for summary judgment along with its opposition to Plaintiff Kimberly Yordy's ("Yordy's") renewed motion for class certification. Plimus requested a hearing date 18 days later, on January 27, 2014. This is untimely under Civil Local Rule 7-2 (a), which requires all motions to be noticed not less than 35 days after service of the motion.

Furthermore, the Court considers Plimus's motion untimely in light of the schedule adopted in this case. On November 14, 2013, the parties filed a joint stipulated request for a revised case schedule. Docket No. 117. Plimus proposed that the parties brief class certification and summary judgment simultaneously, whereas Yordy argued that summary judgment should be briefed after the Court ruled on her renewed motion for class certification. That same day, the Court entered an order rejecting Plimus's position and adopting Yordy's proposed deadline for dispositive motions: "sixty (60) days *following* the Court's ruling on Plaintiff's Renewed Motion for Class Certification." Docket No. 118 (emphasis added). Although the Court's order may not have been explicit, the Court now clarifies its intention – to the extent Plimus had any uncertainty – to decide class certification prior to summary judgment.

Accordingly the Court now VACATES Plimus's motion for summary judgment. Only those portions of Plimus's brief relating to class certification will be considered.

Plimus may renew its motion for summary judgment, if appropriate, after the Court rules on Yordy's renewed motion for class certification, and no later than sixty (60) days following such a ruling.

**IT IS SO ORDERED.**

Dated: 1/15/14



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THELTON E. HENDERSON  
United States District Judge